

those erroneous payments, as defined in subpart P of part 431 of this chapter.

[51 FR 7211, Feb. 28, 1986, as amended at 53 FR 6648, March 2, 1988; 54 FR 8741, Mar. 2, 1989; 59 FR 4255, Jan. 31, 1994]

**§ 435.953 Identifying items of information to use.**

(a) With respect to information received on recipients under §§ 435.940 through 435.960, the agency may either review and compare against the case file all items of information received or it may identify (target) separately for each data source the information items that are most likely to be most productive in identifying and preventing ineligibility and incorrect payments.

(b) An agency that wishes to exclude categories of information items must submit for the Secretary's approval a follow-up plan describing the categories that it proposes to exclude. For each category, the agency must provide a reasonable justification that follow-up is not cost-effective; a formal cost/benefit analysis is not required.

(c) If an agency receives an item of unemployment compensation information from the Internal Revenue Service or earnings information from SSA that duplicates an item of information previously received from another source and followed up, the agency may exclude that information item without justification.

(d) An agency may submit a follow-up plan or alter its plan at any time by notifying the Secretary and submitting the necessary justification. The Secretary approves or disapproves categories of items to be excluded under the plan within 60 days of its submission. The categories approved by the Secretary constitute an approved agency follow-up plan for IEVS.

[54 FR 8742, Mar. 2, 1989]

**§ 435.955 Additional requirements regarding information released by a Federal agency.**

(a) Unless waived under paragraph (d) of this section, based on information received from a computerized data match in which information on an individual is provided to the agency by a Federal agency, the agency may not terminate, deny, suspend, or reduce

medical assistance to that individual until it has taken appropriate steps to verify the information independently. The agency must independently verify information relating to—

(1) The amount of the income and resource that generated the income involved;

(2) Whether the applicant or recipient actually has (or had) access to the resource or income (or both) for his or her own use;

(3) The period or periods when the individual actually has (or had) access to the resource or income or both.

(b) The agency must verify the information by either

(1) Requesting the entity from which the information originally came to verify the fact and amount of income or resource; or

(2) Sending the applicant or recipient a letter informing that individual of the information received and asking him or her to respond within a specified period. The letter must clearly explain the information the agency has and its possible relevance to the individual's past or future eligibility, and be as neutral in tone as possible.

(c)(1) If the original source of the income or resource or the applicant or recipient verifies the information, and the agency intends to reduce, suspend, terminate or deny medical assistance based on the information, the agency must send the applicant or recipient a notice of the action to be taken and include information on the right to appeal and opportunity for a hearing under §§ 431.200 through 431.246 of this chapter (see also § 435.912 and § 435.919).

(2) If the applicant or recipient fails to respond after reasonable attempts to contact him or her, the agency must proceed to deny, terminate, reduce or suspend medical assistance based on the applicant's or recipient's failure to cooperate.

(3) If the applicant or recipient disputes the information, the agency must obtain evidence (from the source of the data, applicant, recipient, or otherwise) to substantiate any negative case action it may take.

(d) The independent verification requirement concerning a category of data received from a Federal benefit agency may be waived if the Federal